



June 13, 2018

Federal Communications Commission  
Commission's Secretary  
445 12<sup>th</sup> St. SW  
Room TW-A325  
Washington, DC 20554

**Re:** *Public Notice on Interpretation of the Telephone Consumer Protection Act in Light of the DC Circuit's ACA International Decision*

To Whom It May Concern:

Quicken Loans is pleased to submit its comments on the *Public Notice on the interpretation of the Telephone Consumer Protection Act ("TCPA") in light of the D.C. Circuit's ACA International decision*.<sup>1</sup> We appreciate the Federal Communications Commission's ("FCC" and "Commission") leadership in exploring efforts to reform the outdated TCPA.

## **BACKGROUND**

As background, Detroit-based Quicken Loans is the nation's largest home mortgage lender. The company closed more than \$400 billion of mortgage volume across all 50 states from 2013 through 2017. Quicken Loans moved its headquarters to downtown Detroit in 2010. Today, Quicken Loans and its Family of Companies employ more than 17,000 full-time team members in Detroit's urban core. The company generates loan production from web centers located in Detroit, Cleveland and Phoenix. Quicken Loans also operates a centralized loan processing facility in Detroit, as well as its San Diego-based One Reverse Mortgage unit. Quicken Loans ranked highest in the country for customer satisfaction for primary mortgage origination by J.D. Power for the past eight consecutive years, 2010 – 2017, and also ranked highest in the country for customer satisfaction among all mortgage servicers the past four consecutive years, 2014 – 2017.

Quicken Loans was once again named to FORTUNE magazine's "100 Best Companies to Work For" list in 2018 and has been included in the magazine's top 1/3rd of companies named to the list for the past 15 consecutive years. The company was also named the #1 place to work in technology in 2017 by Computerworld magazine's "100 Best Places to Work in IT," a recognition it has received 8 times in the past 12 years.

## **EVERY CLIENT. EVERY TIME.**

As an internet-based company, Quicken Loans does not follow the traditional "brick and mortar" model. We've proudly built an internet mortgage lending process that is dedicated to the best client experience possible. Our clients' happiness is our #1 priority. Our successful, centralized business model relies heavily on our ability to transact business by telephone.

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<sup>1</sup>*Public Notice Seeking Comment on Interpretation of the Telephone Consumer Protection Act in Light of the D.C. Circuit's ACA International Decision*, FCC 18-493, CG Docket No. 18-152 & 02-278, FCC (2018)

When the TCPA was enacted, wireless telephones were a luxury item and charges for receiving calls on a wireless telephone were prohibitively expensive. As the Commission has acknowledged, “wireless use has expanded tremendously since the passage of the TCPA in 1991.”<sup>2</sup> Today, 90 percent of Americans own wireless telephones and almost half or 53.3 percent of households are entirely or predominantly “wireless-only.”<sup>3</sup> This effect is even more pronounced among our client population; 64.5% of our largest client base, those between the ages of 45-64, live with only wireless telephones.<sup>4</sup> In fact, even those who have and use a landline are likely to give their cell phone number for contact because they are often away from their home during the day and won’t be home to answer their landline phone.

As consumer reliance on technology has changed drastically since the TCPA effective date, it continually becomes more difficult to communicate with consumers other than by calling them on their cell phones.

### **A NEED FOR TCPA REGULATORY REFORM**

The TCPA’s restrictions have a chilling effect on important communication between businesses and consumers. Businesses’ fears of TCPA litigation and related damages dampens the willingness to use new and evolving technology to their and their customer’s advantage. We urge the FCC to reform regulations and provide clarity on the muddy TCPA provisions, including the autodialer definition; reassigned number definitions; and revocation of consent.

#### *Clearly Defining Autodialer*

The blurry autodialer definition makes it nearly impossible for businesses to know if they are compliant when calling customers. This is even the case with attempts to manually dial. The law in its current form hurts the ability for businesses to provide the best customer service possible.

We urge the FCC to clearly define autodialer. We suggest the autodialer definition state the technology must generate a phone number in random and sequential order AND call the number generated. When a human intervenes in an automated process or when dialing from a specific list of consumers, the rules should be clear the caller did not call using an automatic telephone dialing system.

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<sup>2</sup> Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, 27 FCC Rcd 1830, 29 (2012) (“2012 TCPA Order”).

<sup>3</sup> Stephen J. Blumberg & Julian V. Luke, Div. of Health Interview Statistics, Nat’l Ctr. for Health Statistics, Centers for Disease Control and Prevention, Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2017 (June 2018) (“CDC Wireless Substitution Estimates”), available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201806.pdf>.

<sup>4</sup> Blumberg & Luke, Wireless Substitution: Early Release of Estimates From the National Health Interview Survey

### *Clarifying Reassigned Number Provisions*

As referenced in the FCC's recent Notice of Proposed Rulemaking on the Reassigned Phone Number Database, about 35 million phone numbers are reassigned each year,<sup>5</sup> and as with the autodialer definition, the reassigned number provisions also cause concerns for businesses trying to contact consumers as it is unclear to know if a call violates the TCPA. It is impossible for businesses to know who they are calling until a person picks up the phone.

We urge the FCC to also provide a clear definition of "called party" in the TCPA. The definition should include the "intended recipient of a call" based in good faith and reasonable reliance of previously provided consent. In addition, we support the creation of a reassigned number database and consumer and business-friendly safe harbor, which would allow businesses to verify numbers through a third-party vendor.

### *Rules of the Road for Revoking Consent*

The FCC gives a consumer the option to opt-out of the consent by "any reasonable means." "Any reasonable means" is problematic and broad. It means businesses are required to monitor every channel of customer communication, which is operationally impossible. We suggest bringing the TCPA in line with other consent-based statutes that define methods of revoking consent. We urge the FCC to define "any reasonable means" as (1) a company establishing easy-to-access channels for a customer to revoke consent and (2) not using intentionally deceptive options of opt out.

We urge the FCC to also provide clear guidelines on revoking consent to help both the consumer and businesses with opt-outs. Consumers should be able to revoke consent verbally or in writing, either by designated address; email address; or designated company webpage; and company websites would explain how to revoke consent.

### **Conclusion**

We appreciate the opportunity to comment on the proposed rulemaking and urge the Commission to review other areas of the TCPA in need of reform. We look forward to a continued dialogue with the FCC as it examines how to stop bad actors and calls that harm the consumer and hurt business communications. Should you have any further questions, please contact me at garyweingarden@quickenloans.com or 313-373-4554.



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<sup>5</sup> *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Second Notice of Inquiry, 32 FCC Red 6007, 6009, para. 5 (2017); North American Numbering Plan Administrator Number Resource Utilization/Forecast Reports.